

Message Text

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INFO AMEMBASSY CARACAS IMMEDIATE 5578

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FOR US DEL

FOLLOWING SENT ACTION SECSTATE DEPT OF TREASURY INFO USUN NY
GENEVA FROM MEXICO DATED 25 JUNE 1974 REPEATED FOR INFO TO YOU

QUOTE

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TREASURY PASS BRADFIELD

E.O. 11652: N/A

TAGS: EGEN, UNCTAD

SUBJECT: UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES

1. CAULFIELD (UN SECRETARIAT), WHO IS PRESIDING OVER
CASTANEDA NEGOTIATING GROUP IN LATTER'S ABSENCE, CIRCULATED
FOLLOWING UNATTRIBUTED TEXT AS POSSIBLE BASIS FOR COMPROMISE
EVENING OF JUNE 24. COMMENTS INVITED JUNE 25.

2. QUOTE 1) EVERY STATE HAS FULL PERMANENT SOVEREIGNTY OVER
THE NATURAL RESOURCES WITHIN ITS NATIONAL JURISDICTION,
WHETHER ON LAND, IN THE SEA, SEA-BED OR SUB-SOIL THEREOF,
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AND CONSEQUENTLY HAS THE INALIENABLE RIGHT, SUBJECT TO THE

PERFORMANCE OF ITS INTERNATIONAL COMMITMENTS, TO THE FULL EXERCISE OF ITS SOVEREIGNTY FREELY AND EFFECTIVELY TO DISPOSE OF THEM.

2) THIS RIGHT INCLUDES THE RIGHT TO NATIONALIZATION AS AN EXPRESSION OF ITS SOVEREIGNTY.

3) EVERY STATE HAS THE RIGHT TO REGULATE AND CONTROL FOREIGN INVESTMENT WITHIN ITS NATIONAL JURISDICTION IN ACCORDANCE WITH ITS LAWS AND REGULATIONS AND IN CONFORMITY WITH ITS DEVELOPMENT OBJECTIVES AND PRIORITIES, AND ITS INTERNATIONAL COMMITMENTS. NO STATE SHALL BE REQUIRED TO GRANT PRIVILEGED TREATMENT TO FOREIGN INVESTORS; EVERY STATE SHALL TREAT FOREIGN INVESTORS EQUALLY REGARDLESS OF THEIR NATIONALITY.

4) EVERY STATE HAS THE RIGHT TO REGULATE AND SUPERVISE THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS WITHIN ITS NATIONAL JURISDICTION AND TO TAKE MEASURES TO ENSURE THAT SUCH ACTIVITIES COMPLY FULLY WITH ITS LAWS, RULES AND REGULATIONS, CONFORM WITH ITS NATIONAL, ECONOMIC AND SOCIAL POLICIES AND REFRAIN FROM ANY INTERVENTION IN ITS INTERNAL AFFAIRS. EVERY STATE SHALL ENSURE THAT TRANSNATIONAL CORPORATIONS ENJOY WITHIN ITS NATIONAL JURISDICTION THE SAME RIGHTS AND FULFILL THE SAME OBLIGATIONS AS ANY OTHER FOREIGN PERSON. ALL STATES SHOULD COOPERATE IN GOOD FAITH WITH RESPECT TO THE APPLICATION OF THEIR LAWS TO TRANSNATIONAL CORPORATIONS.

5) THE EXERCISE OF THE RIGHT TO NATIONALIZATION REFERRED TO IN (2) ABOVE, IN RELATION TO THE MATTER OF PAYMENT OF COMPENSATION TO THE FOREIGN INTEREST CONCERNED, SHALL BE IN ACCORDANCE WITH THE DOMESTIC LAW OF THE NATIONALIZING STATE AND WITH INTERNATIONAL LAW AS PROGRESSIVELY DEVELOPED FROM TIME TO TIME BY THE INTERNATIONAL COMMUNITY.

6) IN CASES WHERE NO SOLUTION ON THE QUESTION OF COMPENSATION HAS BEEN ARRIVED AT, RECOURSE WILL BE HAD TO THE NATIONAL JURISDICTION OF THE NATIONALIZING STATE, UNLESS THERE IS AGREEMENT ON THE INTERNATIONAL LEVEL TO SEEK A SETTLEMENT THROUGH OTHER PEACEFUL MEANS ON THE LIMITED OFFICIAL USE

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BASIS OF THE SOVEREIGN EQUALITY OF STATES AND IN ACCORDANCE WITH THE PRINCIPLE OF FREE CHOICE OF MEANS.

GENERAL PROVISION ELSEWHERE IN THE CHARTER:

NO STATE MAY USE OR ENCOURAGE THE USE OF ECONOMIC, POLITICAL OR ANY OTHER TYPE OF MEASURES TO COERCE ANOTHER STATE IN ORDER TO OBTAIN FROM IT THE SUBORDINATION OF THE

EXERCISE OF ITS SOVEREIGN RIGHTS, IN PARTICULAR THOSE RIGHTS
REFERRED TO IN PARAGRAPH(S) 1/ OF THIS CHARTER OR TO
SECURE FROM IT ADVANTAGES OF ANY KIND. UNQUOTE

1/ HERE INSERT REFERENCE TO APPROPRIATE PARAGRAPH(S).

3. WE SEE FOLLOWING PROBLEMS WITH FOREGOING. (A) IN
PARA 1, "COMMITMENTS" WOULD HAVE TO READ "OBLIGATIONS".
(B) IN PARA 3, IBID; AND WE CANNOT ACCEPT PASSAGE ABOUT
PRIVILEGED TREATMENT. (C) IN PARA 6, WE COULD NOT ACCEPT
"AGREEMENT ON THE INTERNATIONAL LEVEL". (D) IN GENERAL
PROVISION, WE COULD NOT ACCEPT REFERENCE BACK TO ARTICLES
ON RIGHTS OF PERMANENT SOVEREIGNTY. WE PLAN TO MAKE
THESE POINTS. JOVA UNQUOTE SISCO

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